165 Fed. 783; *United States v. City of Tiffin* (1911, C. C. N. D. Oh.) 190 Fed. 279; *cf. In re Certain Land* (1902, D. C. Mass.) 119 Fed. 453. On the precise issue that the United States must make compensation to a county for taking a public road, there is an almost complete dearth of authority. The *Nahant* case favors a contrary decision but contains no adequate discussion of the point.

HUSBAND AND WIFE—RIGHT OF WIFE TO SUE HUSBAND FOR ASSAULT AND BATTERY.—The plaintiff sued her husband for assault and battery. Statutes provided that husband and wife might contract with each other; that she might sue alone for injuries to her property, person, or reputation; and that the damages recovered should be her separate property. *Held,* that she could maintain the action. *Johnson v. Johnson* (1917, Ala.) 77 So. 335.

The common law rendered it impossible for a wife to sue her husband because of the theoretical unity of the relation; which in practice meant that recovery would be useless, as he would get the damages as soon as recovered. 1 *Bl. Comm.* 443; see 1 Bishop, *Married Women,* sec. 109; see *Co. Litt.* 133. Enabling statutes giving the wife control of her separate property, and hence of any damages recovered, have been generally and properly construed to permit an action by the wife against the husband for injury to her property. *Mason v. Mason* (1892, N. Y. Sup. Ct.) 66 Hun, 386, 21 N. Y. Supp. 306; *De Baun v. De Baun* (1916) 119 Va. 85, 89 S. E. 239; *Regal Realty, etc., Co. v. Gallagher* (1916, Mo.) 188 S. W. 151; *Borton v. Borton* (1916, Tex. Civ. App.) 190 S. W. 192. But there has been an obstinate indisposition to allow a similar action in tort for injury to the wife's person or reputation. *Thompson v. Thompson* (1910) 218 U. S. 611, 31 Sup. Ct. 111. *Strom v. Strom* (1906) 98 Minn. 427, 107 N. W. 1047, 6 L. R. A. (N. S.) 191, and note; *Nickerson v. Nickerson* (1886) 65 Tex. 281; *Schultz v. Schultz* (1882) 89 N. Y. 644. The supposed public policy on which these decisions are based (the protection of the home and the sacred relations of marriage) is believed to be more imaginary than real. For divorce proceedings are permitted, which wholly break up the home. And it is hard to see why criminal proceedings, which are also allowed, do not do more violence to the sanctity of the marriage relation than the civil action which is denied. See *Fiedler v. Fiedler* (1914) 42 Okla. 124, 140 Pac. 1022. The principal case is supported by adjudications in other jurisdictions. *Brown v. Brown* (1914) 88 Conn. 42, 89 Atl. 889; *Fitzpatrick v. Owen* (1916) 124 Ark. 167, 187 S. W. 460; see also *Sykes v. Speer* (1908, Tex. Civ. App.) 112 S. W. 422; *Abbe v. Abbe* (1897, N. Y.) 22 App. Div. 484, 48 N. Y. Supp. 25. The decisions reached seem to depend not so much on the phraseology of the statutes as on the judicial attitude towards them. By some courts they are considered as "statutes in derogation of the common law," and hence to be strictly construed. *Compton v. Pierson* (1877, Prerog.) 28 N. J. Eq. 229; *Union Trust Co. v. Grosman* (1917) 38 Sup. Ct. 147. By other courts they are construed liberally as "remedial statutes." *Fiedler v. Fiedler, supra.* The liberal construction seems the saner. These statutes change the common law, to be sure, and add to it. But like survival statutes, they add in order to remedy long-felt defects; and the new rights they create should be measured with a view to the needs which called forth their creation. See Black, *Construction and Interp. of Laws,* 244.

INTERNATIONAL LAW—CITIZENSHIP—EXPATRIATION.—X, a native American citizen, son of a Chinese citizen, proceeded to China in 1890, married there a Chinese woman and continuously resided there until 1917, when he died. For

many years prior to 1917, he was an invalid, and it appeared that he was unable to return to the United States. In 1915, the American consul had refused to register X as an American citizen, on the ground that he had by his long residence in China raised against himself a presumption of expatriation, which was not overcome by proof of his physical disability or occasional expressions of intentions to return to the United States. On a petition for the probate of X's will before the United States court for China, the deceased was described as an American citizen, his citizenship being a necessary condition of the court's jurisdiction. *Held,* that he was an American citizen. *In re Lee's Will,* U. S. Court for China, March 30, 1918 (not yet reported in Fed. Rep.).

The Consul, in refusing to register X, confused expatriation with loss of protection, and the rule governing native citizens with that governing naturalized citizens. Act of March 2, 1907, (34 Stat. L. 1228) sec. 2; Department of State Circular Instruction of July 26, 1910; Borchard, *Diplomatic Protection of Citizens Abroad,* 695. The native citizen can become expatriated in one or two ways only: (1) by naturalization abroad; (2) by taking the oath of allegiance to a foreign state. Act of March 2, 1907, sec. 2; *Newcomb v. Newcomb* (1900) 108 Ky. 582, 57 S. W. 2; *Martin (U. S.) v. Mexico,* July 4, 1868, Moore, *International Arbitrations,* 2467. Mr. Hay, Secretary of State, to Mr. Smith, Nov. 6. 1898, 3 Moore, *Digest of Int. Law,* 730. As to the nature of the oath of allegiance required, see Mr. Forsyth, Secretary of State, to Mr. Emerson, Jan. 23, 1839, 3 Moore, *Digest,* 719, and Borchard, *op. cit.* 682. Long residence abroad can only have the effect, under certain circumstances involving an intent not to return to the United States, of forfeiting protection, but not citizenship. (1859) 9 Op. Atty. Gen. 356; Department of State Circular Instruction of July 26, 1910. This was at its worst the status of the testator during his lifetime, although it appears that he had expressed an intent to return to this country. A naturalized citizen raises against himself a presumption of expatriation by residing in his native country for two years or in any other country for five years, although he may overcome the presumption by proving that he was abroad as the representative of American business or for reasons of health which disabled him from returning, provided he had an intention to return when able. Act of March 2, 1907, sec. 2; Department of State Circular of April 19, 1907, Expatriation, For. Rel. 1907, p. 3; Borchard, *op. cit.* 704. The court's decision that the decedent was an American citizen seems entirely correct.

INTERNATIONAL LAW—IMMUNITY OF STATE PROPERTY FROM ATTACHMENT—PROPERTY OF BUSINESS CORPORATION ORGANIZED BY YUCATAN.—The defendant corporation was organized by the state of Yucatan, Mexico, to undertake the purchase and sale of sisal hemp for the benefit of the producers of Yucatan. In an action brought against the corporation in New Jersey to recover damages for the conversion of crops grown on the plaintiff's land in Yucatan some of the defendant's property in New Jersey was attached. The defendant moved to dissolve the attachment on the ground that the property belonged to a foreign government. *Held,* that the motion must be denied. *Molina v. Comision Reguladora del Mercado de Henequen* (1918, N. J. Sup. Ct.) 103 Atl. 397.

The principal ground for the denial of the motion was that Yucatan was not a sovereign state, but a constituent member of a federal union, having possibly a constitutionally, but not an internationally, sovereign character. Moreover, even if it had such a status, the corporation having been organized for business purposes, would not enjoy immunity from judicial process in the